

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY

DEPUTY

MONKEYMEDIA, INC.,

Plaintiff,

vs.

APPLE INC.,

Defendant.

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CIVIL ACTION NO. 1:10-cv-00319

JURY TRIAL DEMANDED

SCHEDULING ORDER

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following Scheduling Order:

1. On December 15, 2010, the parties shall exchange proposed claim terms to be construed.
2. On January 7, 2011, the parties shall exchange proposed claim constructions.
3. On January 11, 2011, the parties shall identify all witnesses whose testimony will be used at the *Markman* hearing and shall provide a short description of the witness' anticipated testimony. Expert witnesses are not required to prepare a written report under Rule 26(a)(2), Federal Rules of Civil Procedure for the purpose of the Markman hearing,
4. On January 25, 2011, the parties shall submit their respective, proposed statements of claims (*Markman* briefs), which shall not exceed thirty (30) pages.

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5. On February 15, 2011, the parties shall submit their respective, responses to proposed statements of claims (responses to *Markman* brief), which shall not exceed ten (10) pages.

6. Between January 27, 2011 to February 25, 2011, the parties shall depose witness(es) who will testify at the *Markman* hearing.

7. On February 22, 2011, counsel for the parties shall meet, confer, and attempt to reduce the number of issues for the *Markman* hearing.

8. On or before February 25, 2011, the parties shall file one chart for each patent that identifies each disputed claim and contains a column with its construction of the disputed claim and a column with its understanding of the opposing party's/parties' construction of the disputed claim as well as the intrinsic and extrinsic evidence supporting each construction.

9. A technical tutorial hearing is set for March 1, 2011 to begin at 9:00 a.m. in the United States Courthouse, Courtroom 2, 200 West Eighth Street, Austin, Texas 78701.

10. A *Markman* hearing is set for March 1-2, 2011 in the United States Courthouse, Courtroom 2, 200 West Eighth Street, Austin, Texas 78701 and will follow the technical tutorial hearing.

11. Fourteen (14) days after receipt of the transcript of the *Markman* hearing, the parties shall submit their respective opening post-hearing briefs, which shall not exceed twenty (20) pages.

12. Seven (7) days after the submission of the parties' respective opening post-hearing briefs, the parties shall submit responsive post-hearing briefs, which shall not exceed five (5) pages.

13. The Court will enter a supplemental scheduling order that sets the trial date and other relevant dates after it enters its *Markman* order. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of trial. No discovery, other than the discovery described in the parties' written discovery plan filed on October 11, 2010, will be conducted before the Markman hearing, except by agreement of the parties or an order of this Court.

SIGNED AND ENTERED this 2nd day of November, 2010


UNITED STATES DISTRICT JUDGE